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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

March 5, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Ave., NW
Washington, DC, 20460

Dear Administrator McCarthy:

On August 1, 2013, in response to a number of chemical facility accidents including the ammonium nitrate explosion in West Texas and a series of refinery explosions and fires, the President issued Executive Order 13650. The Executive Order establishes the Chemical Facility Safety and Security Working Group, co-chaired by you and the Secretaries of Homeland Security and Labor. Section 6 of the Executive Order requires the Working Group to identify and modernize agency policies, regulations, and standards to improve chemical facility safety.

The January 9, 2014, spill at the Freedom Industries chemical storage facility in Charleston, West Virginia, contaminated the drinking water supply to over 300,000 people. The Freedom Industries chemical storage facility was located about 1.5 miles upstream from the West Virginia American Water intake pipes on the Elk River. The facility was converted from a petroleum storage facility in 2001. Because the facility no longer stored petroleum, it was not required to have a spill prevention and control plan.

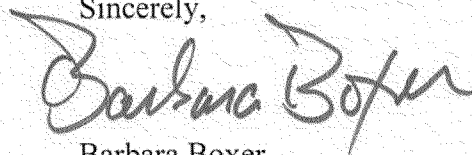
Although under existing law, Section 311(j)(1)(C) of the Clean Water Act contains legal authority to address spill prevention and control, this authority has primarily been used to address oil-related hazards from above-ground storage tanks. The spill prevention provisions for hazardous chemicals under the Clean Water Act have not been implemented, despite the fact that this authority was enacted decades ago.

I ask the President's Working Group to specifically look at existing authorities under the Clean Water Act to address spill prevention and control of hazardous chemicals from above-ground storage tanks. As part of this analysis, I also ask that the Working Group consider factors that can increase the risks and consequences of a spill, including the proximity to drinking water intakes.

It is clear that we cannot afford to leave important opportunities to prevent chemical disasters on the shelf. The time has come to update and modernize the laws that protect our drinking water.

Please let me know your plans for addressing this issue as part of the ongoing Working Group efforts.

Sincerely,

A handwritten signature in black ink, reading "Barbara Boxer". The signature is fluid and cursive, with the first name "Barbara" and last name "Boxer" clearly distinguishable.

Barbara Boxer
Chairman